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09/981,556	10/17/2001	Arnold G. Slezak	P1535US01	6786

7590 10/16/2007  
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 10/16/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/981,556

Applicant(s)

SLEZAK, ARNOLD G.

Examiner

A. Dexter Tugbang

Art Unit

3729

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02 July 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See "Attachment to Notification of Non-Compliant Appeal Brief".

/A. Dexter Tugbang/  
Primary Examiner  
Art Unit: 3729

Attachment to Notification of Non-Compliant Appeal Brief

1. Regarding Item 6, the brief does not contain a separate heading for each grounds of rejection on appeal.

37 CFR 41.37(c)(1)(vii) states:

...Any claim argued separately should be placed under a subheading identifying the claim by number. Claims *argued as a group* should be placed under a *subheading identifying the claims by number*.

In Section VII of the brief, the subheading (on page 5) only identifies Claim 1. Since it appears that applicant(s) have arguments directed to Claim 1 only, the subheading should include the identification of all of the claims rejected within that group, i.e. 1, 3, 5, 7, 9, 21 (as emphasized above).

Furthermore, Section VII has no separate subheading for the other two grounds of rejections, such as the one group with respect to Claim 6, and the other group with respect to Claim 8. Section VII does not appear to contain any separate arguments with respect to each of these groups. Therefore, it appears that Claims 6 and 8 should be included with the subheading above (i.e. with Claims 1, 3, 5, 7, 9, 21), or separate subheadings should be included in Section VII for each of these groups.

2. With respect to Section III of the brief, 37 CFR 41.37(c)(1)(iii) specifically states that the status of the claims refers to the identification of the pending claims in the application that are being appealed, rejected, allowed, confirmed, withdrawn, or canceled, not the claim dependency (e.g. independent, dependent, multiple dependent, etc.). So Section III of the brief that refers to the claim dependency (bottom of page 2 to top of page 3) should be removed. Also, on page 3, Section III.A, the reference to the total number of claims in the application is simply incorrect.

Art Unit: 3729

Claims 1-33 cannot possibly be the total number of claims pending in the application as Claims 2 and 4 have been canceled. So this section should also be removed.

3. The examiner inadvertently overlooked the above issues in the last Office Action (mailed on June 1, 2007). Any delay in prosecution is deeply regretted.